

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

IN RE REGIONS MORGAN KEEGAN SECURITIES,
DERIVATIVE and ERISA LITIGATION

This Document Relates to:
Landers v. Morgan Asset Management, Inc.,
No. 2:08-cv-02260-SHM-dkv
— and —
In re Regions Morgan Keegan Open-End Mu-
tual Fund Litigation,
No. 2:07-cv-02784-SHM-dkv

MDL Docket No. 2009

Judge Samuel H. Mays, Jr.

Magistrate Judge Diane K. Vescovo

**PLAINTIFFS' AND FUNDS' UNOPPOSED JOINT MOTION AND
MEMORANDUM IN SUPPORT SEEKING APPROVAL OF WITHDRAWAL OF
(1) JOINT MOTION FOR PRELIMINARY APPROVAL OF PARTIAL
SETTLEMENT OF CLASS ACTION AND (2) JOINT MOTION FOR APPROVAL
OF THE AMENDED MEMORANDUM OF UNDERSTANDING**

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Unopposed Joint Motion

COME NOW Lead Plaintiffs in Case No. 2:07-cv-02784-SHM-dkv (the “*Class Action*”), the Kathryn S. Cashdollar Estate, Dajalis Ltd., Jeanette H. Landers, H. Austin Landers, and Frank D. Tutor; Derivative Plaintiffs in Case No. 2:08-cv-02260-SHM-dkv (“*Landers*” and collectively with the *Class Action*, the “*Litigation*”), H. Austin Landers, Jeanette H. Landers, James H. Frazier, James P. Whitaker and Peggy C. Whitaker, and the Estates of Charles M. Crump and Diana W. Crump (Lead Plaintiffs and Derivative Plaintiffs, collectively the “Plaintiffs”); and Nominal Defendants in *Landers* and Defendants in the *Class Action*, the Helios Select Fund, Inc. (formerly Morgan Keegan Select Fund, Inc.), Helios Select Short Term Bond Fund (formerly Regions Morgan Keegan Select Short Term Bond Fund), Helios Select Intermediate Bond Fund (formerly Regions Morgan Keegan Select Intermediate Bond Fund), and Helios Select High Income Fund (formerly Regions Morgan Keegan Select High Income Fund) (collectively, the “Funds”); and hereby notify this Court that Plaintiffs, the Funds, and all Defendants in the *Class Action* and *Landers* have agreed to terms for settling the *Litigation*, subject to this Court’s approval (the “Class and Derivative Action Settlements”).

Because the proposed Class and Derivative Action Settlements resolve completely all claims asserted, or that could be asserted, in the *Litigation*, Plaintiffs and the Funds jointly move this Court to enter an order approving the withdrawal of their previously filed Joint Motion for Preliminary Approval of Partial Settlement of Class Action and Joint Motion for Approval of the Amended Memorandum of Understanding (*Landers* ECF No. 126; *Class Action* ECF No. 337).

Memorandum in Support

On November 30, 2010, the Funds filed a status report notifying the Court that they had reached an agreement with Plaintiffs (“Partial Settlement”), reflected in a Memorandum of Understanding (“MOU” and as subsequently amended (“AMOU”)). On March 14, 2011, Plaintiffs and the Funds jointly moved for approval of the Partial Settlement between the class and the Funds and approval of the AMOU (the “Joint Motion for Partial Settlement”). All Defendants except the Funds opposed the Joint Motion for Partial Settlement. Plaintiffs’ and the Funds’ Joint Motion for Partial Settlement is currently pending before this Court.

In the summer of 2013, Plaintiffs and Defendants engaged former United States District Court Judge Layn R. Phillips, a respected and experienced mediator in complex class actions, to assist them in exploring a potential negotiated resolution of the claims asserted in the *Litigation*. On December 17 and 18, 2013, the parties met with Judge Phillips in Chicago, Illinois for two days of intensive settlement negotiations. The mediation sessions were preceded by an exchange of comprehensive mediation statements and supporting evidence, including information from expert reports. While these discussions narrowed the parties’ differences and clarified the merits and value of the parties’ claims and defenses, no agreement was reached.

On February 19, 2014, the Plaintiffs and Defendants resumed settlement negotiations with Judge Phillips in New York, New York. The parties ultimately reached an agreement-in-principle for settlement of the *Litigation* (the “Settlement”).

On February 25, 2014, Plaintiffs and Defendants advised the Court that they were working on a resolution of the *Litigation* and requested that the Court stay issuance of any ruling on the Joint Motion for Partial Settlement pending the negotiation and consummation of definitive settlement agreements in the *Class Action* and *Landers* (the “Settlement Agreements”). The Settlement Agreements have been finalized and executed by all parties to the *Litigation*, and Plaintiffs are preparing to file a motion with this Court seeking

preliminary approval of the Settlement Agreements. Pursuant to the terms of the Settlement with Defendants, Plaintiffs and the Funds have agreed to withdraw their Joint Motion for Partial Settlement, and hereby request this Court to enter an order approving Plaintiffs' and Funds' Unopposed Joint Motion for Withdrawal of their Joint Motion for Partial Settlement.

Consultation by Counsel

Pursuant to LR 7.2 (a)(1)(B) of the Local Rules of the United States District Court for the Western District of Tennessee, filed herewith is a Certificate of Consultation with Counsel affirming that counsel for Plaintiffs and Defendants have consulted with one another concerning this Joint Motion, that Defendants do not oppose this Joint Motion, and that Defendants are in agreement with the action requested by this Joint Motion.

Proposed Order

A proposed order approving the Joint Motion for Withdrawal of the Joint Motion for Partial Settlement will be transmitted to the Court via e-mail in accordance with the requirements of LR 7.2 (a)(1)(A) of the Local Rules of the U.S. District Court for the Western District of Tennessee.

Dated: January 20, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that this 20th day of January, 2015, a true and correct copy of PLAINTIFFS' AND FUNDS' UNOPPOSED JOINT MOTION AND MEMORANDUM IN SUPPORT SEEKING APPROVAL FOR WITHDRAWAL OF (1) JOINT MOTION FOR PRELIMINARY APPROVAL OF PARTIAL SETTLEMENT OF CLASS ACTION AND (2) JOINT MOTION FOR APPROVAL OF THE AMENDED MEMORANDUM OF UNDERSTANDING was served by electronic means via e-mail transmission (including the Court's ECF System) on the following:

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